Supreme Court, U.S.
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In The

Supreme Court of the United States

ERNEST TURNER,

Petitioner,

versus

THE UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I.

Whether a judicial belief that certain forms of criminal activity are by their very nature ongoing is adequate support for a finding of probable cause when the known information is all unquestionably stale.

II.

Whether 21 U.S.C. § 853(a) permits the entry of a personal money judgment against a defendant, a judgment which represents the alleged proceeds of criminal activity, as opposed to property actually in the possession of a defendant; and if so, whether the entry of such a personal money judgment in the amount of $10,000,000 violates the excessive fines clause of the Eighth Amendment.

PARTIES TO THE PROCEEDINGS IN THE COURTS BELOW

1. Ernest Turner
2. The United States of America

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Ernest Turner respectfully requests that the Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit issued in this case on December 15, 2009.

OPINIONS BELOW

The opinion of the Fifth Circuit is not reported, but is found at App. p. 1, *infra*. No petition for rehearing was filed. The judgment of the district court denying Ernest Turner's Motion to Suppress Evidence is not reported, but is found at App. p. 8, *infra*. The order of the district court entering a personal money judgment against Ernest Turner in the amount of $10,000,000 is not reported, but is found at App. p. 9, *infra*.

JURISDICTION OF THE COURT

On December 15, 2009, the United States Court of Appeals for the Fifth Circuit affirmed Ernest Turner's conviction and sentence, following his timely appeal to that court. Turner did not file a petition for rehearing. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 1254(1), and this

petition is timely under Supreme Court Rules 13.1 and 13.3.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides in pertinent part:

> . . . and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, . . .

> The Eighth Amendment to the United States Constitution provides in pertinent part:

> Excessive bail shall not be required, nor excessive fines imposed . . .

STATEMENT OF THE CASE

On November 29, 2007 a federal grand jury sitting in the Eastern District of Louisiana returned a superseding indictment against Ernest Turner and five other individuals, alleging that these six defendants had conspired to distribute five or more kilograms of cocaine. According to the superseding indictment, the conspiracy began in or about May, 2000, and *ended* on or about February 20, 2004. Turner was arrested on a warrant issued pursuant to this superseding indictment on December 7, 2007. At

the time of his arrest, federal agents also conducted a search of Turner's residence at 2556 Crestridge Circle, Marrero, Louisiana, pursuant to a search warrant that had been issued on December 6, 2007. This search resulted in the seizure of many items offered into evidence at Turner's trial.

Turner filed a motion to suppress all items seized in the December 7, 2007 search of his residence, on the grounds that the affidavit in support of the warrant did not establish probable cause, as all the information contained therein was not less than a year old, most of it was four years old, and some of it was six years old. This motion was denied by the district court on April 30, 2008. App. p. 8.

Following his trial, and conviction, Turner was sentenced to 365 months imprisonment, and order to pay a judgment of forfeiture in the amount of $10,000,000. Turner timely appealed to the United States Court of Appeals for the Fifth Circuit, which affirmed his conviction and sentence. App. p. 1. The Court of Appeals found that the affidavit's allegations regarding "far-reaching and ongoing criminal activity" established probable cause, even though the specific factual allegations were stale. Once it determined that a neutral and detached magistrate could have found probable cause, the Court of Appeals necessarily found that the good faith exception of *United States v. Leon*, 468 U.S. 897 (1984) applied.

ARGUMENT AND REASONS FOR GRANTING THE WRIT

I. Whether a judicial belief that certain forms of criminal activity are by their very nature ongoing is adequate support for a finding of probable cause when the known information is all unquestionably stale.

Because a search warrant gives law enforcement officials the right to search private property for items that are believed to be there *currently*, logic and the law have always required that the information supporting the issuance of the warrant be current as well. Put conversely, stale information cannot support a finding of probable cause. *Sgro v. United States*, 287 U.S. 206 (1932).

While there is no fixed formula for determining when information is stale, circuit courts have consistently considered the following factors: (1) the length of time between the events in the affidavit, and the application for the warrant; (2) the nature and duration of the crimes charged; (3) the alleged course of conduct of the defendant; and (4) the nature of the evidence sought, and the nature of the place to be searched. These factors have been derived with no guidance from this Court.

Here, the indictment charged a conspiracy to deal drugs that had ended three and one-half years earlier. There is not a single line in the affidavit that establishes probable cause for drug dealing after that

date. Nor is there a single line that provides any support for the assertion that drug dealing records, or other matters would be found at the house – other than the agent's assertion that such records will be found there "[b]ased on your affiant's training and experience."

In short, the affidavit takes a classic approach: "I know ___ is a drug dealer because of all these cash transactions, and since ___ is a drug dealer I will find incriminating things at _____, so give me the warrant I have requested." The Fourth Amendment, however requires more, even if the magistrate did not.

As noted above, the circuit courts have resisted a fixed approach to the question of when information becomes so stale as to be of no value to a finding of probable cause. This Court has not addressed the question in 78 years. Nor has it ever addressed the question of whether it is appropriate to rely on the judicial belief that certain criminal conduct is ongoing, and that accordingly, there is likely to be evidence of that activity in a given place, even years later. Those omissions should be addressed now, by granting this petition.

II. Whether 21 U.S.C. § 853(a) permits the entry of a personal money judgment against a defendant, a judgment which represents the alleged proceeds of criminal activity, as opposed to property actually in the possession of a defendant; and if so, whether the entry of such a personal money judgment in the amount of $10,000,000 violates the excessive fines clause of the Eighth Amendment.

1. Factual Background

In the first indictment that named Turner as a defendant, the Government gave notice under 21 U.S.C. § 853 that it would seek the criminal forfeiture of any and all property constituting or derived from the proceeds of the criminal offense described in Count 1 – the conspiracy count. At this time, the Government did not identify any specific property.

Approximately eight months later, the Government filed a bill of particulars, indicating that it would seek the forfeiture of certain specific property, and an additional "$20,000,000 in U.S. currency and all interest and proceeds traceable thereto, in that such sum in aggregate is property which was involved in the aforestated [*sic*] offense or is traceable to such property."

Following the jury's verdict of guilty on the underlying drug offense, Turner elected to have the jury try the forfeiture. Turner's counsel objected to the $20,000,000 forfeiture sought by the Government,

on the grounds that the Government did not have the right to seek a money judgment under 21 U.S.C. § 853. Thereafter, the jury returned a forfeiture verdict forfeiting the sum of $10,000,000, but not forfeiting any of the specific items of property.

The Government subsequently moved for the entry of a money judgment against Turner in the amount of $10,000,000. Turner's counsel again objected, arguing that personal money judgments are not authorized by either Federal Rule of Criminal Procedure 32.2(b)(1) and (c)(1) or 21 U.S.C. § 853.

At sentencing, Turner's objections to a personal money judgment were overruled, and the district court entered a final order of forfeiture against Turner in the amount of $10,000,000, in the form of a personal money judgment against Turner. App. p. 9.

On appeal, Turner raised the same arguments, and further contended that the forfeiture was unconstitutional under the Excessive Fines Clause of the Eighth Amendment. The Court of Appeals held that both arguments were foreclosed by its precedent.

2. Reasons for granting the petition

Turner does not dispute that every federal court of appeals that has considered the first question has determined that a personal money judgment can be entered against a defendant in a forfeiture proceeding, regardless of whether the defendant has, or

ever will have the monies represented by the forfeiture judgment. *See United States v. Ginsburg*, 773 F.2d 798 (7th Cir. 1985); *United States v. Navarro-Ordas*, 770 F.2d 959 (11th Cir. 1985); *United States v. Amend*, 791 F.2d 1120 (4th Cir. 1986); *United States v. Robilotto*, 828 F.2d 940 (2nd Cir. 1987); *United States v. Corrado*, 227 F.3d 543 (6th Cir. 2000); *United States v. Edwards*, 303 F.3d 606 (5th Cir. 2002); *United States v. Casey*, 444 F.3d 1071 (9th Cir. 2006); *United States v. Hall*, 434 F.3d 42 (1st Cir. 2006).

These cases foreclose, at the Circuit Court level, any argument that the substantive statute, 21 U.S.C. § 853, does not authorize the Government to seek and obtain a personal money judgment against a defendant. Moreover, in the Fifth Circuit, that Court has specifically determined that the "excessive fines" clause of the Eighth Amendment does not apply to forfeitures of drug proceeds. As that Court wrote in *United States v. Betancourt*, 422 F.3d 240, 250-251 (5th Cir. 2005):

> Betancourt's argument that forfeiture of any funds over $152,000 violates the excessive fines provision of the Eighth Amendment confuses forfeiture of property with the imposition of a fine. This Court has held that the Eighth Amendment has no application to forfeiture of property acquired with drug proceeds. *United States v. Buchanan*, 70 F.3d 818, 830 n. 12 (5th Cir.1995) ("[T]he forfeiture of drug proceeds does not constitute punishment, and thus neither the Eighth

Amendment prohibition against excessive fines nor double jeopardy analysis is applicable."). (footnote omitted)

Other Courts of Appeals have similarly held that in such instances the Eighth Amendment does not apply. *See, e.g., United States v. Alexander,* 32 F.3d 1231, 1236 (8th Cir.1994) ("Forfeiture of proceeds cannot be considered punishment, and thus, subject to the excessive fines clause, as it simply parts the owner from the fruits of the criminal activity."); *United States v. Real Prop. Located at 22 Santa Barbara Drive,* 264 F.3d 860, 875 (9th Cir.2001) (holding that "the excessive fines clause of the Eighth Amendment does not apply to a forfeiture action brought under 21 U.S.C. § 881(a)(6)," which governs forfeiture of funds connected with drug trafficking); *United States v. Lot 41, Berryhill Farm Estates*, 128 F.3d 1386, 1395-96 (10th Cir.1997) (holding that forfeiture of drug proceeds pursuant to § 881(a)(6) "can never be constitutionally excessive").

That Betancourt used his drug proceeds to generate a very large return by winning the Texas lottery is of no import in the forfeiture analysis. *See, e.g., United States v. Hill,* 46 Fed.Appx. 838, 839 (6th Cir.2002) (where the defendant purchased 616 shares of stock with proceeds from money laundering, and the stock had split and become 9,240 shares, the district court properly ordered the forfeiture of the additional shares because they represented the appreciated

> value of the properly forfeited 616 shares). Therefore, Betancourt is entitled to no relief on his argument that the Eighth Amendment bars the district court's order of forfeiture.

It is respectfully submitted that this conclusion is flatly erroneous, and in direct conflict with this Court's decisions in *Alexander v. United States*, 509 U.S. 544 (1993), and *United States v. Bajakian*, 524 U.S. 321 (1998).

There were no actual "drug proceeds" forfeited in this prosecution, nor was there any forfeiture of property acquired with such drug proceeds. Instead, what was created was a fictional indebtedness to the United States, one which purports to represent such proceeds. As *Alexander* makes clear, this is a fine, pure and simple, and as such, is subject to the Eighth Amendment: "The *in personam* criminal forfeiture at issue here is clearly a form of monetary punishment no different for Eighth Amendment purposes, from a traditional "fine." * * * Accordingly, the forfeiture in this case should be analyzed under the Excessive Fines Clause." *Alexander*, 544 U.S. at 558-559.

The history of the legal principles at issue was more fully explained by this Court in its opinion in *Bajakian:*

> Traditional *in rem* forfeitures were thus not considered punishment against the individual for an offense. See *id.*, at 14; *Dobbins's Distillery v. United States, supra,* 96 U.S., at 401; *Van Oster v. Kansas,* 272 U.S. 465, 467-468, 47 S.Ct. 133, 134, 71 L.Ed. 354 (1926);

Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 683-684, 94 S.Ct. 2080, 2091-2092, 40 L.Ed.2d 452 (1974); *Taylor v. United States*, 3 How. 197, 210, 11 L.Ed. 559 (1845) (opinion of Story, J.) (laws providing for *in rem* forfeiture of goods imported in violation of customs laws, although in one sense "imposing a penalty or forfeiture[,] . . . truly deserve to be called, remedial"); see also *United States v. Ursery*, 518 U.S. 267, 293, 116 S.Ct. 2135, 2150, 135 L.Ed.2d 549 (1996) (KENNEDY, J., concurring) ("[C]ivil *in rem* forfeiture is not punishment of the wrongdoer for his criminal offense"). Because they were viewed as nonpunitive, such forfeitures traditionally were considered to occupy a place outside the domain of the Excessive Fines Clause. Recognizing the nonpunitive character of such proceedings, we have held that the Double Jeopardy Clause does not bar the institution of a civil, *in rem* forfeiture action after the criminal conviction of the defendant. See *id.*, at 278, 116 S.Ct., at 2142.[FN6]

FN6. It does not follow, of course, that all modern civil *in rem* forfeitures are nonpunitive and thus beyond the coverage of the Excessive Fines Clause. Because some recent federal forfeiture laws have blurred the traditional distinction between civil *in rem* and criminal *in personam* forfeiture, we have held that a modern statutory forfeiture is a "fine" for Eighth Amendment purposes if it constitutes punishment even in part, regardless of whether the proceeding is styled *in*

> *rem* or *in personam*. See *Austin v. United States, supra*, at 621-622, 113 S.Ct., at 2811-2812 (although labeled *in rem*, civil forfeiture of real property used "to facilitate" the commission of drug crimes was punitive in part and thus subject to review under the Excessive Fines Clause).

United States v. Bajakian, 524 U.S. at 330-331.

As was the case in both *Alexander* and *Bajakian*, the forfeiture against Turner required a criminal conviction of the defendant, it served no remedial purpose, it was designed to punish the offender, and it cannot be imposed upon innocent owners. Accordingly, like Alexander and Bajakian, Turner was entitled to the protections of the Eighth Amendment.

The Court of Appeals noted Turner's argument, but rejected it, based on its previous decisions. Accordingly, if there is to be relief on this issue, it can only come from this Court.

CONCLUSION

For the foregoing reasons, this petition for a writ of certiorari should be granted.

New Orleans, Louisiana, this 15th day of March, 2010.

Respectfully submitted,

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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 09-30232

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ERNEST TURNER, also known as
Baldie Turner, also known as B-Man Turner,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:07-CR-343

(Filed Dec. 15, 2009)

Before JOLLY, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Ernest Turner was charged by indictment with one count of conspiring to distribute

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

more than five kilograms of cocaine hydrochloride. After a jury found Turner guilty, the district court sentenced him to 365 months' imprisonment and entered a forfeiture order against him in the amount of $10 million. Turner now appeals his conviction and sentence on three grounds that: (1) the evidence from a search of his residence should have been suppressed because the magistrate judge had issued the search warrant based on stale and unreliable information that failed to establish probable cause; (2) the district court erred by curtailing defense counsel's cross-examination of a key government witness; and (3) the district court's forfeiture order is both unauthorized by statute and unconstitutional. We address each ground in turn, beginning with Turner's contention that the evidence recovered from his residence should have been suppressed because the magistrate judge who issued the search warrant relied on stale information that failed to establish probable cause.

We review a district court's denial of a motion to suppress *de novo* and its findings of fact for clear error, considering all evidence introduced during both the suppression hearing and the trial in the light most favorable to the prevailing party – here, the government.[1] When, as here, the motion being reviewed attacks the validity of a search warrant, we must first determine whether the good-faith exception

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[1] *See United States v. Santiago*, 410 F.3d 193, 197 (5th Cir. 2005); *United States v. Laury*, 985 F.2d 1293, 1314 (5th Cir. 1993).

applies, *i.e.*, whether the law enforcement officers who executed the warrant acted in objectively reasonable good-faith reliance on the warrant's validity.[2] Only if we conclude that they did not act in such good faith reliance do we then examine the underlying affidavit and other circumstances surrounding the issuance of the warrant to determine whether it was issued on the basis of probable cause.[3] "Issuance of a warrant by a magistrate normally suffices to establish good faith on the part of law enforcement officers who conduct a search pursuant to the warrant."[4]

Turner insists that the good-faith exception is inapplicable here, not because the affidavit was bare bones or because the officers who executed the warrant did so in bad faith or because it was so facially deficient that the officers who executed it could not have believed that it was valid, but because the facts alleged in the underlying affidavit were so

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[2] *See United States v. Leon*, 468 U.S. 897, 922-23 (1984) (describing the good-faith exception and explaining that "penalizing the officer for the [magistrate judge's] error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations").

[3] *United States v. Craig*, 861 F.2d 818, 820 (5th Cir. 1988) ("Principles of judicial restraint and precedent dictate that, in most cases, we should not reach the probable cause issue if a decision on the admissibility of the evidence under the good-faith exception [ ] will resolve the matter." (internal quotation marks and citation omitted)).

[4] *Id.* at 821.

stale and unreliable that the magistrate judge must have "wholly abandoned his judicial role" to conclude that the affidavit established probable cause.[5] We cannot agree with Turner that no neutral and detached magistrate could have found probable cause based on the affidavit. It alleged not only past drug trafficking, but also far-reaching and ongoing criminal activity, including facts that, if true, would constitute insurance fraud, mortgage fraud, FEMA fraud, tax fraud, and money laundering.[6] We conclude, therefore, that the good-faith exception does apply here, and we perceive no error in the district court's denial of Turner's suppression motion.[7]

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[5] *See United States v. Gibbs*, 421 F.3d 352, 358 (5th Cir. 2005). We have previously explained that the good-faith exception applies unless (1) the affiant deliberately or recklessly misled the issuing judge with false information; (2) the issuing judge wholly abandoned his judicial role in such a way that no reasonably well trained officer should have relied on the warrant; (3) the underlying affidavit is bare bones; or (4) the warrant is so facially deficient that the executing officers could not reasonably have believed that it was valid. *Id.*

[6] *See Craig*, 861 F.2d at 822 (explaining that if "the information of the affidavit clearly shows a long-standing, ongoing pattern of criminal activity, even if fairly long periods of time have lapsed between the information and issuance of the warrant, the information need not be regarded as stale" (quoting *United States v. Webster*, 734 F.2d 1048, 1056 (5th Cir. 1984)).

[7] Because we conclude that the good-faith exception applies, we need not determine whether the affidavit establishes probable cause.

Turner's next contention is that the district court erred when it limited defense counsel's cross-examination of a government witness regarding his expectation of leniency in exchange for testifying. "Alleged violations of the Confrontation Clause [of the Sixth Amendment] are reviewed *de novo,* but are subject to a harmless error analysis."[8] The Confrontation Clause guarantees a criminal defendant the right to cross-examine the witnesses against him, but, as we have previously explained, this right is not "unlimited."[9] Rather, the Confrontation Clause is satisfied where defense counsel has been permitted to "expos[e] to the jury the facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of a witness."[10]

Turner's trial counsel was permitted to extensively cross-examine Foster, a convicted drug dealer who was testifying for the government, regarding (1) his criminal background, including his lengthy history of dealing drugs; (2) his 1993 criminal conviction; (3) his association with Tijerina, a large-scale drug trafficker; (4) his strange behavior at the time of his

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[8] *United States v. Bell,* 367 F.3d 452, 465 (5th Cir. 2004).

[9] *United States v. Jimenez,* 464 F.3d 555, 559 (5th Cir. 2006).

[10] *Id.* at 562; *see Bigby v. Dretke,* 402 F.3d 551, 573 (5th Cir. 2005) (explaining that the Confrontation Clause does not guarantee defendants the right to "cross-examination to whatever extent they desire").

arrest; (5) his initial reluctance to provide law enforcement officers with the names of his accomplices; (6) his guidelines advisory sentencing range of ten years-to-life; (7) his actual sentence of only 87 months; (8) the fact that he had not been required to forfeit any assets following his conviction; (9) the amount of time he still had left to serve on his sentence; and (10) his desire to receive a sentence reduction in exchange for his testimony. It was only after defense counsel began to ask Foster a series of speculative questions regarding other possible sentencing ranges Foster might have faced that the district court curtailed cross-examination and ordered defense counsel to abandon this line of questioning. Based on our thorough review of the transcript, we are confident that the district court did not deprive Turner of his Sixth Amendment rights or otherwise abuse its discretion by so limiting defense counsel's speculative questioning. Counsel was undoubtedly permitted to "expos[e] to the [jurors] the facts from which [they], as the sole triers of fact and credibility," could draw inferences regarding Foster's reliability.[11]

Turner's third contention is that the district court's forfeiture order, in the form of a $10-million personal money judgment, is both unauthorized by statute and unconstitutional under the Excessive Fines Clause of the Eighth Amendment. Turner concedes, however, that this argument is foreclosed

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[11] *See Jimenez*, 464 F.3d at 562.

by our precedent and that he includes it here only to preserve it for possible review by the Supreme Court.[12] We perceive no error in the district court's forfeiture order.

For the foregoing reasons, the judgment of the district court is, in all respects,

AFFIRMED.

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[12] *See, e.g., United States v. Buchanan*, 70 F.3d 818, 830 n.12 (5th Cir. 1995) (explaining that "the forfeiture of drug proceeds does not constitute punishment, and thus . . . the Eighth Amendment prohibition against excessive fines [is not] applicable" (internal quotation marks and citation omitted)).

MINUTE ENTRY
BARBIER, J.
APRIL 30, 2008
JS-10: 35 min.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	CRIMINAL ACTION
VERSUS	NUMBER: 07-343
ERNEST TURNER	SECTION: J
COURTROOM DEPUTY: EILEEN STENSRUD	COURT REPORTER: DAVID ZAREK

WEDNESDAY, APRIL 30, 2008 1:30 P.M.
JUDGE CARL J. BARBIER PRESIDING

(Filed Apr. 30, 2008)

DEFENDANT'S MOTION TO SUPPRESS (85):

Argued.

Stipulation as to Tyrone Mackey interview stated on the record.

Motion is ORDERED DENIED.

ATTORNEYS: William J. Quinlan Jr, AUSA,
for government
Timothy Meche, Esq., for defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 07-343
v.	*	SECTION: J
ERNEST TURNER	*	

* * *

FINAL ORDER OF FORFEITURE

(Filed Mar. 20, 2009)

Based upon the Motion and Brief of the United States for Issuance of a Final Order of Forfeiture in the above-captioned case, and the reasons stated therein,

WHEREAS, on November 20, 2008, the jury, by Special Verdict, pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, determined that the Defendant derived $10,000,000 in proceeds from the offense alleged in Count One of the Superseding Indictment, for which the Defendant has been convicted, and

WHEREAS, the United States has filed a Motion for Entry of Final Order of Forfeiture which would consist of a personal money judgment against the Defendant in the amount of $10,000,000, and

WHEREAS, Rule 32.2(c)(1) provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment,"

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant, ERNEST TURNER, shall forfeit to the United States the sum of $10,000,000 pursuant to Title 21, United States Code, Section 853.

IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3), this Order of Forfeiture shall become final as to the defendant, ERNEST TURNER, at the time of sentencing and shall be made part of the sentence and is hereby included in the Judgment *nunc pro tunc*, as if copied therein *in extenso*.

IT IS FURTHER ORDERED that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Order of Forfeiture to substitute property having a value not to exceed $10,000,000 to satisfy the money judgment in whole or in part; and

IT IS FURTHER ORDERED that the United States District Court shall retain jurisdiction in the case for the purpose of enforcing this Order.

New Orleans, Louisiana, this 20th day of ~~December~~ March, 20089.

/s/ Carl J. Barbier
UNITED STATES
DISTRICT JUDGE